

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROGER CARLTON JOHNSON,

Plaintiff,

v.

**Civil Action 2:16-cv-1064
Judge Michael H. Watson
Magistrate Judge Jolson**

UNITED STATES,

Defendant.

REPORT AND RECOMMENDATION

On April 14, 2017, this Court issued an Order noting that there is no record that service has been made upon Defendant. (Doc. 10). Consequently, the Court directed Plaintiff to show good cause within fourteen days why this action should not be dismissed and why an extension of time to effect service should be allowed. (*Id.* (citing Fed. R. Civ. P. 4(m))). Plaintiff filed a response on April 21, 2017. (Doc. 11).

In an April 24, 2017 Order, the Court allowed Plaintiff a limited extension of time to effect service until May 4, 2017. (Doc. 12). The Court informed Plaintiff that, although he is proceeding *pro se*, he is required nevertheless to follow the Federal Rules of Civil Procedure and this Court's Local Rules. (*Id.* at 1). The Court also directed Plaintiff to Rule 4(i) of the Federal Rules of Civil Procedure, which governs service of process in cases where the United States is named as a defendant. (*Id.*). Finally, the Court warned Plaintiff that if he failed to effect service by May 4, 2017, dismissal would be recommended; no further extensions of time would be granted. (*Id.* at 1–2).

The docket reflects that the Clerk's office received a request for issuance of summons from Plaintiff with a letter requesting that the Clerk serve Defendant by certified mail. However, Plaintiff did not comply with Southern District of Ohio Civil Rule 4.2. Specifically, he failed to provide service copies, mailing materials, or postage in the envelope. The Clerk's office thus issued the summons and returned it by regular mail to Plaintiff with a copy of this Court's local rules. To date, Defendant has not been served, and the time for doing so has passed. Based on the foregoing, the Court **RECOMMENDS** that this action be dismissed.

Procedure on Objections to Report and Recommendation

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140

(1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: May 11, 2017

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE